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Dkt. 0763/74768-AAA/JPW/GJG/JRM

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Michael Wayne Graham, Robert Norman Rice, Peter  
Michael Waterhouse and Ming-Bo Wang

Serial No. : 10/821,726 Examiner: Vivlemore, T.A.

Filed : April 8, 2004 Art Unit: 1635

For : SYNTHETIC GENES AND GENETIC CONSTRUCTS

1185 Avenue of the Americas  
New York, New York 10036  
December 12, 2007

Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

REQUEST TO CORRECT INVENTORSHIP UNDER 37 C.F.R. §1.48(a)

This Request to Correct Inventorship Under 37 C.F.R. §1.48(a) is submitted in order to correct an error in the inventorship currently listed for the above-identified application.

Michael Wayne Graham and Robert Norman Rice are currently named as the inventors on the subject application.

In accordance with 37 C.F.R. §1.48(a)(1), applicants hereby request that **Peter Michael Waterhouse** and **Ming-Bo Wang** be added as inventors of the invention claimed in the subject application.

Applicants attach hereto as Exhibit A a Statement By Peter Michael Waterhouse Under 37 C.F.R. §1.48(a)(2), including Exhibit 1 which states that the error in failing to name him as an inventor occurred without deceptive intent on his part.

Applicants : Michael Wayne Graham, Robert Norman Rice, Peter  
Michael Waterhouse and Ming-Bo Wang  
Serial No. : 10/821,726  
Filed : April 8, 2004  
Page 2 of 3 of December 12, 2007 Request To Correct Inventorship  
Under 37 C.F.R. §1.48(a)

Applicants also attach hereto as Exhibit B a Statement By Ming-Bo Wang Under 37 C.F.R. §1.48(a)(2), including Exhibit 1 which states that the error in failing to name him as an inventor occurred without deceptive intent on his part.

In accordance with 37 C.F.R. §1.48(a)(3), applicants attach hereto as Exhibit C a new inventors' Declaration signed by both Peter Michael Waterhouse and Ming-Bo Wang as required by 37 C.F.R. §1.63.

The inventors currently named in the subject application, i.e. Michael Wayne Graham and Robert Norman Rice, have assigned their rights to Commonwealth Scientific And Industrial Research Organisation. Pursuant to 37 C.F.R. §1.48(a)(5), applicants attach hereto as Exhibit D a Consent Of Assignee Under 37 C.F.R. §3.73, including Exhibits 1 to 3.

According to 37 C.F.R. §1.48(a)(4), the Request must be accompanied by the processing fee set forth in §1.17(i), i.e. \$130.00. A check for this amount is enclosed.

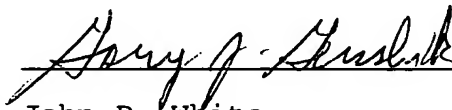
Applicants also respectfully request that the United States Patent and Trademark Office issue a corrected filing receipt upon entry of this Request.

If a telephone interview would be of assistance in advancing prosecution of the subject application, applicants' undersigned attorney invites the Examiner to telephone him at the number provided below.

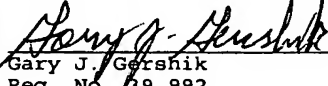

Applicants : Michael Wayne Graham, Robert Norman Rice, Peter  
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Serial No. : 10/821,726  
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Page 3 of 3 of December 12, 2007 Request To Correct Inventorship  
Under 37 C.F.R. §1.48(a)

No fee, other than the enclosed \$130.00 processing fee, is deemed necessary in connection with the filing of this Request. However, if any additional fee is required, authorization is hereby given to charge the amount of any such fee to Deposit Account No. 03-3125.

Respectfully submitted,



John P. White  
Registration No. 28,678  
Gary J. Gershik  
Registration No. 39,992  
Attorneys for Applicants  
Cooper & Dunham LLP  
1185 Avenue of the Americas  
New York, New York 10036  
(212) 278-0400

I hereby certify that this correspondence is being deposited this date with the U.S. Postal Service with sufficient postage as first class mail in an envelope addressed to:	
Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450	
 Gary J. Gershik Reg. No. 39,992	 Date

# Exhibit A

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Michael Wayne Graham, Robert Norman Rice, Peter Michael Waterhouse and Ming-Bo Wang

Serial No. : 10/821,726

Examiner: Vivlemore, T.A.

Filed : April 8, 2004

Art Unit: 1635

For : SYNTHETIC GENES AND GENETIC CONSTRUCTS

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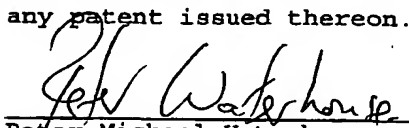
Sir:

STATEMENT BY PETER MICHAEL WATERHOUSE UNDER 37 C.F.R. §1.48(a)(2)

I, Peter Michael Waterhouse, hereby state as follows:

1. I understand that I am being added as an inventor of the subject matter claimed in the above-identified patent application, the currently pending claims of which are attached hereto as Exhibit 1.
2. The error in failing to name me as an inventor occurred without deceptive intention on my part.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made herein on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the subject application or any patent issued thereon.

  
Peter Michael Waterhouse

Date:

27<sup>th</sup> Sept 2007

# **EXHIBIT 1**

Applicants: Michael Wayne Graham et al.  
Serial No.: 10/821,726  
Filed : April 8, 2004  
Page 2 of 11 of August 2, 2007 Amendment

In the Claims

Please replace the currently pending set of claims with the set of claims provided below:

1-33. (Cancelled)

34. (Previously Presented) A method for producing an RNA molecule which is capable of delaying, repressing or otherwise reducing the expression of a target gene in an isolated eukaryotic cell comprising introducing into an isolated eukaryotic cell a synthetic genetic construct comprising two copies of a structural gene sequence operably under the control of a single promoter and a terminator sequence which contains a polyadenylation signal and is active in the cell, wherein said structural gene sequence comprises a nucleotide sequence which is identical to a sequence of 30 contiguous nucleotides of said target gene, wherein at least one copy of said structural gene sequence is placed operably in the sense orientation and at least one other copy of said structural gene sequence is placed operably in the antisense orientation under the control of the promoter, wherein said two copies of said structural gene sequence are spatially separated by a stuffer fragment which comprises a sequence of nucleotides, and wherein the synthetic genetic construct is transcribed to produce the RNA molecule.

35-87. (Cancelled)

88. (Previously Presented) The method of claim 34, wherein the target gene is a viral gene.

Applicants: Michael Wayne Graham et al  
U.S. Serial No.: 10/821,726  
Filed: April 8, 2004

Exhibit 1

Applicants: Michael Wayne Graham et al.  
Serial No.: 10/821,726  
Filed : April 8, 2004  
Page 3 of 11 of August 2, 2007 Amendment

89. (Previously Presented) The method of claim 34, wherein the cell is a plant cell.
90. (Previously Presented) The method of claim 89, wherein the target is viral gene.
91. (Previously Presented) The method of claim 88, wherein the viral gene encodes a DNA polymerase, RNA polymerase or viral coat protein.
92. (Previously Presented) The method of claim 34, wherein the target gene is from a lentivirus.
93. (Previously Presented) The method of claim 34, wherein the target gene is from an immunodeficiency virus.
94. (Previously Presented) The method of claim 34, wherein the target gene is from a single-stranded (+)RNA virus.
95. (Previously Presented) The method of claim 34, wherein the target gene is from a double-stranded DNA virus.
96. (Previously Presented) The method of claim 34, wherein the target gene is a transgene in the cell.
97. (Previously Presented) The method of claim 34, wherein the target gene is an endogenous gene of the cell.
98. (Previously Presented) The method of claim 97, wherein the cell is a plant cell.
99. (Previously Presented) The method of claim 97, wherein the cell is an animal cell.



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Serial No.: 10/821,726  
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100. (Previously Presented) The method of claim 34, wherein the contiguous nucleotides of the target gene corresponds to a coding region of the target gene.
101. (Previously Presented) The method of claim 34, wherein the 30 contiguous nucleotides of the target gene correspondence to a 5' or 3' - untranslated sequence of the target gene.
102. (Previously Presented) The method of claim 34, wherein the transcribed region of the genetic construct comprises an intron.
103. (Previously Presented) The method of claim 34, wherein the stuffer fragment is a sequence of nucleotides 10-50 nucleotides in length, 50-100 nucleotides in length, or 100-500 nucleotides in length.
104. (Previously Presented) The method of claim 34, wherein the stuffer fragment comprises an intron.
105. (Previously Presented) The method of claim 34, wherein the total length of said structural gene sequences is no more than 2.0 kilobases.
106. (Previously Presented) The method of claim 34, wherein the total length of said structural gene sequences is no more than 0.5 kilobases.
107. (Previously Presented) The method of claim 34, wherein the two copies are in a head-to-head orientation relative to each other.

Applicants: Michael Wayne Graham et al.  
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108. (Previously Presented) The method of claim 34, wherein the two copies are in a tail-to-tail orientation relative to each other.
109. (Previously Presented) The method of claim 34, comprising transfecting the cell with the genetic construct.
110. (Previously Presented) The method of claim 34, wherein the genetic construct is delivered to the cell in a virus particle.
111. (Previously Presented) The method of claim 34, wherein the genetic construct is delivered to the cell in a liposome.
112. (Previously Presented) The method of claim 34, wherein the genetic construct is integrated into the genome of the cell.
113. (Previously Presented) The method of claim 34, wherein the genetic construct has only two copies of said structural gene sequence.
114. (Previously Presented) A method for producing an RNA molecule which is capable of delaying, repressing or otherwise reducing the expression of a target gene in a plant cell comprising introducing into the plant cell a synthetic genetic construct comprising two copies of a structural gene sequence operably under the control of a single promoter and a terminator sequence which contains a polyadenylation signal and is active in the cell, wherein said structural gene sequence comprises a nucleotide sequence which is identical to a sequence of 30 contiguous nucleotides of said target gene, wherein at least one copy

Applicants: Michael Wayne Graham et al.  
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of said structural gene sequence is placed operably in the sense orientation and at least one other copy of said structural gene sequence is placed operably in the antisense orientation under the control of the promoter; wherein said two copies of said structural gene sequence are spatially separated by a stuffer fragment which comprises a sequence of nucleotides, and wherein the synthetic genetic construct is transcribed to produce the RNA molecule.

115. (Previously presented) The method of claim 114, wherein the target gene is viral gene.
116. (Previously presented) The method of claim 115, wherein the viral gene encodes a DNA polymerase, RNA polymerase or viral coat protein.
117. (Previously presented) The method of claim 114, wherein the target gene is from a single-stranded(+)RNA virus.
118. (Previously presented) The method of claim 114, wherein the target gene is from a double-stranded DNA virus.
119. (Previously presented) The method of claim 114, wherein the target gene is a transgene in the cell.
120. (Previously presented) The method of claim 114, wherein the target gene is an endogenous gene of the cell.
121. (Previously presented) The method of claim 114, wherein the 30 contiguous nucleotides of the target gene corresponds to a coding region of the target gene.

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Serial No.: 10/821,726  
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122. (Previously presented) The method of claim 114, wherein the 30 contiguous nucleotides of the target gene corresponds to a 5'-or3'-untranslated sequence of the target gene.
123. (Previously presented) The method of claim 114, wherein the transcribed region of the genetic construct comprises an intron.
124. (Previously presented) The method of claim 114, wherein the stuffer fragment is a sequence of nucleotides 10-50 nucleotides in length, 50-100 nucleotides in length, or 100-500 nucleotides in length.
125. (Previously presented) The method of claim 114, wherein the stuffer fragment comprises an intron.
126. (Previously presented) The method of claim 114, wherein the total length of said structural gene sequences is no more than 2.0 kilobases.
127. (Previously presented) The method of claim 126, wherein the total length of said structural gene sequences is no more than 0.5 kilobases.
128. (Previously presented) The method of claim 114, wherein the two copies are in a head-to-head orientation relative to each other.
129. (Previously presented) The method of claim 114, wherein the two copies are in a tail-to-tail orientation relative to each other.

Applicants: Michael Wayne Graham et al.  
Serial No.: 10/821,726  
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130. (Previously presented) The method of claim 114, wherein the genetic construct is integrated into the genome of the cell.
131. (Previously presented) The method of claim 114, wherein the genetic construct has only two copies of said structural gene sequence.
132. (Previously presented) The method of claim 114, wherein the cell is comprised in a transgenic plant.
133. (New) A method comprising introducing into an isolated eukaryotic cell a synthetic genetic construct comprising two copies of a structural gene sequence operably under the control of a single promoter and a terminator sequence which contains a polyadenylation signal and is active in the cell, wherein said structural gene sequence comprises a nucleotide sequence which is identical to a sequence of 30 contiguous nucleotides of a target gene in the cell, wherein at least one copy of said structural gene sequence is placed operably in the sense orientation and at least one other copy of said structural gene sequence is placed operably in the antisense orientation under the control of the promoter, wherein said two copies of said structural gene sequence are spatially separated by a stuffer fragment which comprises a sequence of nucleotides, and wherein the synthetic genetic construct is transcribed to produce an RNA molecule.

# Exhibit B

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Michael Wayne Graham, Robert Norman Rice, Peter Michael  
Waterhouse and Ming-Bo Wang  
Serial No. : 10/821,726 Examiner: Vivlemore, T.A.  
Filed : April 8, 2004 Art Unit: 1635  
For : SYNTHETIC GENES AND GENETIC CONSTRUCTS

1185 Avenue of the Americas  
New York, New York 10036

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

STATEMENT BY MING-BO WANG UNDER 37 C.F.R. §1.48(a)(2)

I, Ming-Bo Wang, hereby state as follows:

1. I understand that I am being added as an inventor of the subject matter claimed in the above-identified patent application, the currently pending claims of which are attached hereto as Exhibit 1.
2. The error in failing to name me as an inventor occurred without deceptive intention on my part.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made herein on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the subject application or any patent issued thereon.

Ming-Bo Wang  
Ming-Bo Wang

Date: 14/09/2007

Applicants : Michael Wayne Graham et al.  
U.S. Serial No. : 10/821,726  
Filed : April 8, 2004

Exhibit B

# **EXHIBIT 1**



Applicants: Michael Wayne Graham et al.  
Serial No.: 10/821,726  
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Page 2 of 11 of August 2, 2007 Amendment

In the Claims

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1-33. (Cancelled)

34. (Previously Presented) A method for producing an RNA molecule which is capable of delaying, repressing or otherwise reducing the expression of a target gene in an isolated eukaryotic cell comprising introducing into an isolated eukaryotic cell a synthetic genetic construct comprising two copies of a structural gene sequence operably under the control of a single promoter and a terminator sequence which contains a polyadenylation signal and is active in the cell, wherein said structural gene sequence comprises a nucleotide sequence which is identical to a sequence of 30 contiguous nucleotides of said target gene, wherein at least one copy of said structural gene sequence is placed operably in the sense orientation and at least one other copy of said structural gene sequence is placed operably in the antisense orientation under the control of the promoter, wherein said two copies of said structural gene sequence are spatially separated by a stuffer fragment which comprises a sequence of nucleotides, and wherein the synthetic genetic construct is transcribed to produce the RNA molecule.

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97. (Previously Presented) The method of claim 34, wherein the target gene is an endogenous gene of the cell.
98. (Previously Presented) The method of claim 97, wherein the cell is a plant cell.
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104. (Previously Presented) The method of claim 34, wherein the stuffer fragment comprises an intron.
105. (Previously Presented) The method of claim 34, wherein the total length of said structural gene sequences is no more than 2.0 kilobases.
106. (Previously Presented) The method of claim 34, wherein the total length of said structural gene sequences is no more than 0.5 kilobases.
107. (Previously Presented) The method of claim 34, wherein the two copies are in a head-to-head orientation relative to each other.

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108. (Previously Presented) The method of claim 34, wherein the two copies are in a tail-to-tail orientation relative to each other.
109. (Previously Presented) The method of claim 34, comprising transfecting the cell with the genetic construct.
110. (Previously Presented) The method of claim 34, wherein the genetic construct is delivered to the cell in a virus particle.
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112. (Previously Presented) The method of claim 34, wherein the genetic construct is integrated into the genome of the cell.
113. (Previously Presented) The method of claim 34, wherein the genetic construct has only two copies of said structural gene sequence.
114. (Previously Presented) A method for producing an RNA molecule which is capable of delaying, repressing or otherwise reducing the expression of a target gene in a plant cell comprising introducing into the plant cell a synthetic genetic construct comprising two copies of a structural gene sequence operably under the control of a single promoter and a terminator sequence which contains a polyadenylation signal and is active in the cell, wherein said structural gene sequence comprises a nucleotide sequence which is identical to a sequence of 30 contiguous nucleotides of said target gene, wherein at least one copy

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of said structural gene sequence is placed operably in the sense orientation and at least one other copy of said structural gene sequence is placed operably in the antisense orientation under the control of the promoter; wherein said two copies of said structural gene sequence are spatially separated by a stuffer fragment which comprises a sequence of nucleotides, and wherein the synthetic genetic construct is transcribed to produce the RNA molecule.

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# Exhibit C



**DECLARATION AND POWER OF ATTORNEY**

*As a below-named inventor, I hereby declare that:*

*My residence, post office address, and citizenship are as stated below next to my name.*

*I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:*

**SYNTHETIC GENES AND GENETIC CONSTRUCTS**

*the specification of which:  
(check one)*

\_\_\_\_\_ *is attached hereto.*

  X   *was filed on*   April 8, 2004   *as*

*Application Serial No.*   10/821,726  

*and was amended* \_\_\_\_\_  
*(if applicable)*

*I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.*

*I acknowledge the duty to disclose to the U.S. Patent and Trademark Office all information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, Section 1.56.*

*I hereby claim foreign priority benefits under Title 35, United States Code, Section 119(a)-(d) or Section 365(b) of any foreign application(s) for patent or inventor's certificate, or Section 365(a) of any PCT International Application which designated at least one country other than the United States, listed below. I have also identified below any foreign application for patent or inventor's certificate, or PCT International Application having a filing date before that of the earliest application from which priority is claimed:*

**Prior Foreign Application(s)****Priority Claimed**

<u>Number</u>	<u>Country</u>	<u>Filing Date</u>	<u>Yes</u>	<u>No</u>
PP2492	Australia	March 20, 1998	<u>  X  </u>	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

JPW Rev. 2/1/07

Applicants : Michael Wayne Graham et al.  
U.S. Serial No. : 10/821,726  
Filed : April 8, 2004

**Exhibit C**

## Declaration and Power of Attorney

Page 2

*I hereby claim the benefit under Title 35, United States Code, Section 119(e) of any United States provisional application(s) listed below:*

<u>Provisional Application No.</u>	<u>Filing Date</u>	<u>Status</u>
N/A		

*I hereby claim the benefit under Title 35, United States Code, Section 120 of any United States Application(s), or Section 365(c) of any PCT International Application(s) designating the United States listed below. Insofar as this application discloses and claims subject matter in addition to that disclosed in any such prior Application in the manner provided by the first paragraph of Title 35, United States Code, Section 112, I acknowledge the duty to disclose to the United States Patent and Trademark Office all information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, Section 1.56, which became available between the filing date(s) of such prior Application(s) and the national or PCT international filing date of this application:*

<u>Application Serial No.</u>	<u>Filing Date</u>	<u>Status</u>
10/759,841	January 15, 2004	Pending
10/346,853	January 17, 2003	Pending
09/100,812	June 19, 1998	Pending as of January 17, 2003

*And I hereby appoint*

John P. White (Reg. No. 28,678); Christopher C. Dunham (Reg. No. 22,031); Norman H. Zivin (Reg. No. 25,385); William E. Pelton (Reg. No. 25,702); Robert D. Katz (Reg. No. 30,141); Paul Teng (Reg. No. 40,837); Gary J. Gershtik (Reg. No. 39,992); and Peter J. Phillips (Reg. No. 29,691).

*and each of them, all c/o Cooper & Dunham LLP, 1185 Avenue of the Americas, New York, New York 10036, my attorneys, each with full power of substitution and revocation, to prosecute this application, to make alterations and amendments therein, to receive the patent, to transact all business in the Patent and Trademark Office connected therewith and to file any International Applications which are based thereon under the provisions of the Patent Cooperation Treaty.*

Please address all communications, and direct all telephone calls, regarding this application to:

John P. White, Esq. Reg.No. 28,678  
Cooper & Dunham, LLP (Customer Number 23432)  
1185 Avenue of the Americas  
New York, New York 10036  
Tel. (212) 278-0400

*I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.*

Full name of sole or first joint inventor Michael Wayne Graham  
 Inventor's signature \_\_\_\_\_ Date of signature \_\_\_\_\_  
 Citizenship Australian  
 Residence Jindalee, Queensland, Australia  
 Post Office Address 38 Cobbadah Street, Jindalee, Queensland 4074, Australia

Full name of additional joint inventor (if any) Robert Norman Rice  
 Inventor's signature R. N. Rice Date of signature 22/07/2007  
 Citizenship Australian  
 Residence Sinnamon Park, Queensland, Australia  
 Post Office Address 39 Foley Place, Sinnamon Park, Queensland 4106, Australia

Full name of additional joint inventor (if any) Peter Michael Waterhouse  
 Inventor's signature \_\_\_\_\_ Date of signature \_\_\_\_\_  
 Citizenship British  
 Residence Canberra, ACT, Australia  
 Post Office Address 5 Banjine Street, O.Connor, Canberra, ACT 2602, Australia

## Declaration and Power of Attorney

Page 3

Please address all communications, and direct all telephone calls, regarding this application to:

John P. White, Esq. Reg.No. 28,678  
Cooper & Dunham, LLP (Customer Number 23432)  
1185 Avenue of the Americas  
New York, New York 10036  
Tel. (212) 278-0400

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of sole or  
first joint inventor

Michael Wayne Graham

Inventor's signature



Date of signature 12/9/07

Citizenship

Australian

Residence

Jindalee, Queensland, Australia

Post Office Address

38 Cobbadah Street, Jindalee, Queensland 4074, Australia

Full name of additional  
joint inventor (if any)

Robert Norman Rice

Inventor's signature

Robert Norman Rice

Date of signature

Citizenship

Australian

Residence

Sinnamon Park, Queensland, Australia

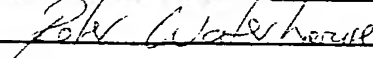
Post Office Address

39 Foley Place, Sinnamon Park, Queensland 4106, Australia

Full name of additional  
joint inventor (if any)

Peter Michael Waterhouse

Inventor's signature



Date of signature 27/9/07

Citizenship

British

Residence

Canberra, ACT, Australia

Post Office Address

5 Banjine Street, O'Connor, Canberra, ACT 2602, Australia

## Declaration and Power of Attorney

Page 4

Full name of additional  
joint inventor (if any)

Ming-Bo Wang

Inventor's signature

Ming-Bo WangDate of signature 14/09/2007

Citizenship

Australian

Residence

Kaleen, ACT, Australia

Post Office Address

3 Kiewa Street, Kaleen, ACT 2617 Australia

Full name of additional  
joint inventor (if any)

Inventor's signature

Date of signature

Citizenship

Residence

Post Office Address

Full name of additional  
joint inventor (if any)

Inventor's signature

Date of signature

Citizenship

Residence

Post Office Address

Full name of additional  
joint inventor (if any)

Inventor's signature

Date of signature

Citizenship

Residence

Post Office Address

# Exhibit D

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Michael Wayne Graham, Robert Norman Rice, Peter  
Michael Waterhouse and Ming-Bo Wang

Serial No. : 10/821,726 Examiner: Vivelmore, T.A.

Filed : April 8, 2004 Art Unit: 1635

For : SYNTHETIC GENES AND GENETIC CONSTRUCTS

1185 Avenue of the Americas  
New York, New York 10036

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

CONSENT OF ASSIGNEE UNDER 37 C.F.R. §3.73

1. Commonwealth Scientific And Industrial Research Organisation ("CSIRO") is the assignee of record of all rights and interests in the above-identified invention and patent application by virtue of an Assignment from State Of Queensland Through Its Department Of Primary Industries recorded on January 11, 2006 with the U.S. Patent Office at reel number 017177, frames 0658-0664, and an Assignment from Benitec Australia Limited recorded on November 2, 2006 at reel number 018472, frames 0587-0595. A copy of the signed Assignment from State Of Queensland Through Its Department Of Primary Industries is attached hereto as Exhibit 1 and the Assignment from Benitec Australia Limited is attached hereto as Exhibit 2. A copy of the Patent Assignment Abstract of Title from the Internet site of the U.S. Patent and Trademark Office in connection with the parent application of the subject invention and patent application is attached hereto as Exhibit 3 confirming the foregoing, and also indicating that the State Of Queensland

Applicants : Michael Wayne Graham et al.  
U.S. Serial No. : 10/821,726  
Filed : April 8, 2004


Exhibit D

Applicants : Michael Wayne Graham, Robert Norman Rice, Peter  
Michael Waterhouse and Ming-Bo Wang  
Serial No. : 10/821,726  
Filed : April 8, 2004  
Page 2 of 2 of Consent Of Assignee Under 37 C.F.R. §3.73

Through Its Department Of Primary Industries and Benitec Australia Limited obtained rights and interests in the above-identified invention and patent application by virtue of an assignment from the currently named inventors, Michael Wayne Graham and Robert Norman Rice.

2. CSIRO hereby consents to the addition of Peter Michael Waterhouse and Ming-Bo Wang as named inventors on the subject application.
3. I am an official authorized to sign this consent on behalf of CSIRO.

Commonwealth Industrial And Industrial Research Organisation

By:   
Robert C. de Feyter  
Intellectual Property Manager  
CSIRO Plant Industry

Date: 26/09/07



# **EXHIBIT 1**

**BLAKE DAWSON WALDRON**  
P A T E N T   S E R V I C E S

# Deed of Assignment

**State of Queensland**  
through its Department of Primary Industries

**Commonwealth Scientific and Industrial Research Organisation**

Blake Dawson Waldron Patent Services  
Level 39 101 Collins Street  
Melbourne VIC 3000  
Telephone +61 3 9679 3065  
Fax +61 3 9679 3111

Ref: WJP IP CLN 1303 9625

© Blake Dawson Waldron Patent Services 200

Applicants Michael Wayne Graham et al  
U S Serial No 10/821,726  
Filed April 8, 2004

Exhibit 1

## ASSIGNMENT OF APPLICATIONS AND PATENTS

DATE 8 December 2003

### PARTIES

State of Queensland through its Department of Primary Industries, of Primary Industries Building, 80 Ann Street, Queensland (Assignor)

Commonwealth Scientific and Industrial Research Organisation a body corporate established by the Commonwealth Science and Research Act 1949 and having its principal office at Limestone Avenue, Campbell in the Australian Capital Territory (Assignee)

### RECITALS

The Assignor assigns all of its rights and interests in the Applications and Patents set out in the attached Schedule to the Assignee, on the terms set out in this Deed of Assignment.

### OPERATIVE PROVISIONS

#### 1. DEFINITIONS

The following definitions apply in this document.

**Applications** means the patent applications described in the Schedule and any divisional applications from any of them and any amendments, continuations or continuations-in-part of any of them.

**Benitec Australia Limited**, ACN 080 299 645, of Suite 4, 242 Hawken Drive, St Lucia, Queensland (**Benitec Australia**)

**Patents** means the registered patents described in the Schedule and any divisional applications from any of them and any amendments, extensions, re-issues, or re-grants of any of them.

#### 2. ASSIGNMENT

In consideration of the sum of \$1 and other good and valuable consideration now paid by the Assignee to the Assignor, receipt of which the Assignor acknowledges, the Assignor, as beneficial owner, assigns to the Assignee all its rights and interests in:

- (a) the Applications; and
- (b) the Patents.

#### 3. REGISTRATION

The Assignor undertakes at the expense of the Assignee to do all acts and execute all documents necessary to ensure that the Applications and the Patents will issue jointly in the names of Benitec Australia Limited and the Assignee. In the event of default by the Assignor to perform such acts or execute necessary documents, but only after the Assignor has been given a proper and reasonable opportunity to perform the acts or

3.

execute the documents, the Assignor appoint the nominee of the Assignee as the Assignor's attorney for that purpose.

4. **GOVERNING LAW**

This Deed is governed by the law of New South Wales. The parties submit to the non-exclusive jurisdiction of courts exercising jurisdiction there.

EXECUTED as a deed this 8<sup>th</sup> day of December 2003

EXECUTED for and on behalf of the  
DEPARTMENT OF PRIMARY  
INDUSTRIES on behalf of the State of  
Queensland by:

Signature

PETER L. JONES

Name and position

Director Biodiversity  
BDI

Signature of witness

Debra Davis  
Name of witness

EXECUTED for and on behalf of the  
COMMONWEALTH SCIENTIFIC AND  
INDUSTRIAL RESEARCH  
ORGANISATION by:

Signature

M. BAGHAI, Exec Director

Name and position


BDIC

Signature of witness

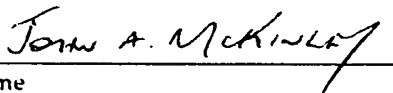
J. STEENE  
Name of witness


**AGREEMENT TO ASSIGNMENT**

Benitec Australia Limited, ACN 080 299 645, of Suite 4, 242 Hawken Drive, St Lucia, Queensland hereby acknowledges its agreement to the assignment set out above.

SIGNED, SEALED AND DELIVERED for and on behalf of   
~~THE COMMON SEAL of~~ BENITEC  
AUSTRALIA LIMITED, the fixing of  
which was witnessed by:

  
\_\_\_\_\_  
Signature of director

  
\_\_\_\_\_  
Name

  
\_\_\_\_\_  
Signature of director/secretary

  
\_\_\_\_\_  
Name

**SCHEDULE**  
**APPLICATIONS AND PATENTS**

**Granted Patents**

Graham, M.W. and Rice, R.N. (2001) Control of gene expression. ZA 2000/4507.

Graham, M.W. and Rice, R.N. (2002) Control of gene expression. AU 2001100608.

Graham, M.W. and Rice, R.N. (2002) Control of gene expression. SG 75542.

Graham, M.W. and Rice, R.N. (2003) Genetic constructs for delaying or repressing the expression of a target gene. US 6,573,099.

Graham, M.W. and Rice, R.N. (2003) Control of gene expression. GB 2353282.

**Accepted Patents**

Graham, M.W. and Rice, R.N. (2001) Control of gene expression. AU 743316.

Graham, M.W. and Rice, R.N. (2003) Control of gene expression. NZ 506648.

**Patent Applications**

Graham, M. W. and Rice, R.N. (US 09/997/905) Synthetic Genes and genetic constructs comprising same I.

Graham, M.W. and Rice, R.N. (US 10/346,853) Synthetic genes and genetic constructs comprising same I.

Graham, M.W. and Rice, R.N. (WO 99/49029 (PCT/AU/99/00195)) Control of gene expression.

Graham, M.W. and Rice, R.N. (BR PI9908967-0) Control of gene expression.

Graham, M.W. and Rice, R.N. (CA 2,323,726) Control of gene expression.

Graham, M.W. and Rice, R.N. (CN 99804255-2) Control of gene expression.

Graham, M.W. and Rice, R.N. (CZ PV2000-3346) Control of gene expression.

Graham, M.W. and Rice, R.N. (EP 99910039.9) Control of gene expression.

Graham, M.W. and Rice, R.N. (HK 01105904.3) Control of gene expression.

Graham, M.W. and Rice, R.N. (HU PO101225) Control of gene expression.

Graham, M.W. and Rice, R.N. (IN 2000/00169/DEL) Control of gene expression.

Graham, M.W. and Rice, R.N. (JP P2000-537990) Control of gene expression.

Graham, M.W. and Rice, R.N. (KR 7010419/2000) Control of gene expression.

Graham, M.W. and Rice, R.N. (MX 008631) Control of gene expression.

Graham, M.W. and Rice, R.N. (PL P.343064) Control of gene expression.

Graham, M.W. and Rice, R.N. (SK PV1372-2000) Control of gene expression.

Graham, M.W. and Rice, R.N. (AU 95225/01) Control of gene expression.

Graham, M.W. and Rice, R.N. (AU 35647/02) Control of gene expression.

Graham, M.W. and Rice, R.N. (NZ 525941) Control of gene expression.

Graham, M.W. and Rice, R.N. (SG 200205122-5) Control of gene expression.

Graham, M.W. and Rice, R.N. (US 09/646,807) Control of gene expression.

**Priority Documents**

Graham, M.W. (1998) Synthetic genes and genetic constructs comprising same I. AU PP2492/98.

Graham, M.W. and Rice, R.N. (1998) Gene expression I. AU PP2499/98.

## **EXHIBIT 2**



# Deed of Assignment

Benitec Australia Limited

Commonwealth Scientific and Industrial Research Organisation

Copyright © 2004 by Benitec Australia Limited. All rights reserved.

Applicants: Michael Wayne Graham et al  
U.S. Serial No.: 10/821,726  
Filed: April 8, 2004

Exhibit 2

Deed of Assignment

DATE 21 August 2006

PARTIES

Benitec Australia Limited, ACN 080 299 645, of C/- Adsto International, Adsto House, 401 New Canterbury Road, P.O. Box 20, Dulwich Hill, NSW, Australia 2203 (Assignor)

Commonwealth Scientific and Industrial Research Organisation a body corporate established by the Commonwealth Science and Research Act 1949 and having its principal office at Limestone Avenue, Campbell in the Australian Capital Territory (Assignee)

RECITALS

The Assignor assigns all of its right, title and interest in and to the Applications and Patents set out in the attached Schedule to the Assignee, on the terms set out in this Deed of Assignment.

OPERATIVE PROVISIONS

1. DEFINITIONS

The following definitions apply in this document.

Applications means the patent applications described in the Schedule and any divisional applications from any of them and any amendments, continuations or continuations-in-part of any of them, and any patent that issues from any of the patent applications.

Patents means the registered patents described in the Schedule and any divisional applications from any of them and any amendments, extensions, re-issues, or re-grants of any of them.

2. ASSIGNMENT

In consideration of the sum of \$1 and other good and valuable consideration now paid by the Assignee to the Assignor, the receipt and sufficiency of which the Assignor acknowledges, the Assignor, as beneficial owner, assigns to the Assignee all of its right, title and interest in and to:

- (a) the Applications; and
- (b) the Patents,

and to the extent that any of the Applications or the Patents have previously been assigned by the Assignor to the Assignee, the Assignor and the Assignee hereby confirm such previous assignment.

3. REGISTRATION

The Assignor undertakes at the expense of the Assignee to do all acts and execute all documents necessary to ensure that the Applications and the Patents will issue in the sole

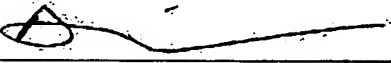
name of the Assignee. In the event of default by the Assignor to perform such acts or execute necessary documents, but only after the Assignor has been given a proper and reasonable opportunity to perform the acts or execute the documents, the Assignor appoint the nominee of the Assignee as the Assignor's attorney for that purpose.

#### 4. GOVERNING LAW

This Deed is governed by the law of New South Wales. The parties submit to the non-exclusive jurisdiction of courts exercising jurisdiction there.

EXECUTED as a deed this 21<sup>st</sup> day of August 2006

EXECUTED for and on behalf of BENITEC AUSTRALIA LIMITED by:

  
Signature

Peter Francis, Chairman  
Name and position

  
Signature of witness

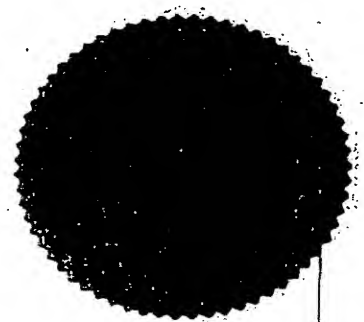
Richard Arons  
Name of witness

Subscribed and sworn to before me this 21<sup>st</sup> day of August 2006

(Notarial Seal)

By   
Notary Public

EMILIOS JOHN KYROU  
PUBLIC NOTARY  
LEVEL 50, 600 BOURKE STREET  
MELBOURNE 3000 VICTORIA AUSTRALIA  
TEL: (613) 9643 4194 FAX: (613) 9643 5999  
EMAIL: emilios.kyrou@malleasons.com



EXECUTED for and on behalf of the  
COMMONWEALTH SCIENTIFIC AND  
INDUSTRIAL RESEARCH  
ORGANISATION by:

*Jack Steele*

Signature

Dr Jack Steele  
Chief of Staff  
CSIRO Business Services

Name and position

*Celia Murray*

Signature of witness

*CELIA MURRAY*

Name of witness

Subscribed and sworn to before me this 2<sup>nd</sup> day of August 2000

(Notarial Seal)



By

*G. Hammond*

Notary Public

GREGORY NORMAN HAMMOND  
NOTARY PUBLIC  
SYDNEY

## SCHEDULE

## APPLICATIONS AND PATENTS

- Graham, M.W. and Rice, R.N. Control of gene expression. US 10/646,070.
- Graham, M.W. and Rice, R.N. (2001) Control of gene expression. ZA 2000/4507.
- Graham, M.W. and Rice, R.N. (2002) Control of gene expression. AU 2001100608.
- Graham, M.W. and Rice, R.N. (2002) Control of gene expression. SG 75542.
- Graham, M.W. and Rice, R.N. (2003) Control of gene expression. GB 2353282.
- Graham, M.W. and Rice, R.N. (2001) Control of gene expression. AU 743316.
- Graham, M.W. and Rice, R.N. (2003) Control of gene expression. NZ 506648.
- Graham, M.W. and Rice, R.N. (US 09/997,905) Synthetic genes and genetic constructs comprising same I.
- Graham, M.W. and Rice, R.N. (US 10/346,853) Synthetic genes and genetic constructs comprising same I.
- Graham, M.W. and Rice, R.N. (WO 99/49029 (PCT/AU99/00195)) Control of gene expression.
- Graham, M.W. and Rice, R.N. (BR PI9908967-0) Control of gene expression.
- Graham, M.W. and Rice, R.N. (CA 2,323,726) Control of gene expression.
- Graham, M.W. and Rice, R.N. (CN 99804255-2) Control of gene expression.
- Graham, M.W. and Rice, R.N. (CZ PV2000-3346) Control of gene expression.
- Graham, M.W. and Rice, R.N. (EP 99910039.9) Control of gene expression.
- Graham, M.W. and Rice, R.N. (HK 01105904.3) Control of gene expression.
- Graham, M.W. and Rice, R.N. (HU PO101225) Control of gene expression.
- Graham, M.W. and Rice, R.N. (IN 2000/00169/DEL) Control of gene expression.
- Graham, M.W. and Rice, R.N. (JP P2000-537990) Control of gene expression.
- Graham, M.W. and Rice, R.N. (KR 7010419/2000) Control of gene expression.
- Graham, M.W. and Rice, R.N. (MX 008631) Control of gene expression.
- Graham, M.W. and Rice, R.N. (PL P.343064) Control of gene expression.

Graham, M.W. and Rice, R.N. (SK PV1372-2000) Control of gene expression.

Graham, M.W. and Rice, R.N. (AU 95225/01) Control of gene expression.

Graham, M.W. and Rice, R.N. (AU 35647/02) Control of gene expression.

Australian Patent Publication No. 2005209648.

Australian Patent Publication No. 2005211538.

Graham, M.W. and Rice, R.N. (NZ 525941) Control of gene expression.

New Zealand Patent Application No. 536674.

New Zealand Patent Application No. 547283

Graham, M.W. and Rice, R.N. (SG 200205122-5) Control of gene expression.

Graham, M.W. and Rice, R.N. (US 09/646,807) Control of gene expression.

US Patent Application No. 10/759,841.

US Patent Application No. 10/821,710.

US Patent Application No. 10/821,726.

Graham, M.W. (1998) Synthetic genes and genetic constructs comprising same I. AU PP2492/98.

Graham, M.W. and Rice, R.N. (1998) Gene expression I. AU PP2499/98.

Australian Patent Publication No. 2005202658.

Brazil Patent Application No. PI9917642-4

Canada Patent Application No. 2513336.

China Patent Application No. 200510083325.1

Europe Patent Application No. 05013010.3

Hungary Patent Application No. PO500631

India Patent Application No. 3413/DELNP/2005

Japan Patent Application No. 2005-223953

Mexico Patent Application No. PA/a/2005/006838

Poland Patent Application No. P.377017

Singapore Patent Application No. 200503921-9

South Korea Patent Application No. 7005341/2006

United States Patent Application No. 11/180,928 (Published as US20050250208)

United States Patent Application No. 11/218,999 (Published as US20060014715)

and any other patent or patent application claiming priority from PP2492 or PP2499, US Patent Application Numbers 09/100,812, or 09/100,813 and divisional applications from any of the patents and patent applications listed in this Schedule and any amendments, continuation or continuation-in-part applications, extensions, re-issues or re-grants of or to all or any of the patents and patent applications listed in this Schedule together with any renewal, division, continuation, continued prosecution application or continuation-in-part of any of such patents, certificates and applications, any and all patents or certificates of invention issuing thereon, and any and all reissues, re-examinations, extensions, divisions, renewals, substitutions, confirmations, registrations, re-validations, revisions, and additions of or to any of the foregoing, and any foreign counterparts of any of the foregoing, but with the sole exception of US Patent Number 6,573,099.

# **EXHIBIT 3**





United States Patent and Trademark Office

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alerts | News | Help



Assignments on the Web > Patent Query

**Patent Assignment Abstract of Title**

***NOTE: Results display only for issued patents and published applications. For pending or abandoned applications please consult USPTO staff.***

**Total Assignments: 4**

**Patent #:** NONE      **Issue Dt:**      **Application #:** 10346853      **Filing Dt:** 01/17/2003  
**Publication #:** 2003Q159161      **Pub Dt:** 08/21/2003  
**Inventors:** Michael Wayne Graham, Robert Norman Rice  
**Title:** Synthetic genes and genetic constructs comprising same I

**Assignment: 1**

**Reel/Frame:** 013630/0431      **Recorded:** 05/05/2003      **Pages:** 3  
**Conveyance:** ASSIGNMENT OF ASSIGNORS INTEREST (SEE DOCUMENT FOR DETAILS)  
**Assignors:** GRAHAM, MICHAEL WAYNE      **Exec Dt:** 04/29/2003  
RICE, ROBERT NORMAN      **Exec Dt:** 04/29/2003  
**Assignee:** BENITEC AUSTRALIA LIMITED  
P O BOX 4193  
ST LUCIA SOUTH, QLD 4067, AUSTRALIA  
**Correspondent:** MORRISON & FOERSTER LLP  
MICHAEL R WARD  
425 MARKET STREET  
SAN FRANCISCO, CA 94105-2482

**Assignment: 2**

**Reel/Frame:** 013755/0922      **Recorded:** 06/24/2003      **Pages:** 4  
**Conveyance:** CORRECTED RECORDATION FORM COVER SHEET TO ADD OMITTED ASSIGNEE, PREVIOUSLY RECORDED AT REEL/FRAME 013630/0431 (ASSIGNMENT OF ASSIGNOR'S INTEREST)  
**Assignors:** GRAHAM, MICHAEL WAYNE      **Exec Dt:** 04/29/2003  
RICE, ROBERT NORMAN      **Exec Dt:** 04/29/2003  
**Assignees:** BENITEC AUSTRALIA LIMITED  
P O BOX 4193  
ST LUCIA SOUTH, QLD 4067, AUSTRALIA  
STATE OF QUEENSLAND THROUGH ITS DEPARTMENT OF PRIMARY INDUSTRIES  
80 ANN STREET  
PRIMARY INDUSTRIES BLDG.  
BRISBANE, QUEENSLAND 4000, AUSTRIA  
**Correspondent:** MORRISON & FOERSTER LLP  
MICHAEL R WARD  
425 MARKET STREET  
SAN FRANCISCO, CA 94105-2482

**Assignment: 3**

**Reel/Frame:** 014340/0445      **Recorded:** 02/13/2004      **Pages:** 7  
**Conveyance:** ASSIGNMENT OF ASSIGNORS INTEREST (SEE DOCUMENT FOR DETAILS).

9/6/2007

Applicants: Michael Wayne Graham et al  
U S Serial No 10/821,726  
Filed April 8, 2004

Exhibit 3

**Assignor:** STATE OF QUEENSLAND THROUGH ITS DEPARTMENT OF  
PRIMARY INDUSTRIES

**Exec Dt:** 12/08/2003

**Assignee:** COMMONWEALTH SCIENTIFIC AND INDUSTRIAL RESEARCH ORGANIZATION  
LIMESTONE AVENUE, CAMPBELL IN THE AUSTRALIAN CAPITAL TERRITORY  
AUSTRALIA

**Correspondent:** MORRISON & FOERSTER LLP  
MICHAEL R. WARD  
425 MARKET STREET  
SAN FRANCISCO, CA 94105

**Assignment: 4**

**Reel/Frame:** 018472/0587

**Recorded:** 11/02/2006

**Pages:** 9

**Conveyance:** ASSIGNMENT OF ASSIGNORS INTEREST (SEE DOCUMENT FOR DETAILS).

**Assignor:** BENITEC AUSTRALIA LIMITED

**Exec Dt:** 08/21/2006

**Assignee:** COMMONWEALTH SCIENTIFIC AND INDUSTRIAL RESEARCH ORGANISATION  
GPO BOX 1600  
CANBERRA, AUSTRALIA 2601

**Correspondent:** PATTON BOGGS, LLP  
8484 WESTPARK DRIVE  
9TH FLOOR  
MCLEAN, VA 22102-5117

Search Results as of 09/08/2007 11:07 AM  
If you have any comments or questions concerning the data displayed, contact PRD / Assignments at 571-272-3350. v 2.0.1  
Web interface last modified April 20, 2007 v 2.0.1

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